
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

MILLROCK INVESTMENT FUND 1, LLC,

Plaintiff,

v.

HEALTHCARE SOLUTIONS
MANAGEMENT GROUP, INC.;
HEALTHCARE SOLUTIONS HOLDINGS
INC.; LANDES CAPITAL
MANAGEMENT LLC; LANDES AND
COMPAGNIE TRUST PRIVE KB;
JOSHUA CONSTANTIN; JUSTIN SMITH;
STUART MCMAHEN; AND BLACK
LABEL SERVICES, INC.

Defendants.

**MEMORANDUM DECISION AND
ORDER**

2:23-cv-00157-RJS-DAO

Chief District Judge Robert J. Shelby

Magistrate Judge Daphne A. Oberg

Before the Court is Defendant Joshua Constantin’s Motion for Summary Judgment, Sanctions, and Attorney Fees.¹ As this court previously found, Millrock Investment Fund 1, LLC (Millrock) “is entitled to wait under the end of fact-discovery to properly oppose summary judgment.”² Because fact discovery is ongoing, the Motion is DENIED without prejudice.

BACKGROUND

This case concerns \$2,235,923 paid by Defendant Healthcare Solutions Management Group, Incorporated (HSMG) to its former employee Constantin under a settlement agreement.³

¹ Dkt. 160, *Request for Summary Judgment, Sanctions, and Attorney Fees (Motion)*.

² Dkt. 146, *Memorandum Decision and Order (Order)*.

³ Dkt. 28, *Second Amended Complaint and Jury Demand (Complaint)* ¶ 77.

Millrock alleges HSMG made this settlement payment to avoid paying debt owed to Millrock and brings this action against Constantin for Voidable Transfer.⁴

Constantin answered Millrock's Complaint on July 17, 2023.⁵ Prior to the close of fact-discovery, Constantin and Defendant McMahan filed a Joint Motion for Summary Judgment.⁶ Millrock sought to defer any ruling on that motion until after the completion of discovery in accordance with Federal Rule of Civil Procedure 56(d).⁷ The court granted Millrock's request and denied the Motion for Summary Judgment without prejudice.⁸ The court instructed Constantin that he may resubmit a motion for summary judgment after fact discovery concludes.⁹ Fact discovery between Millrock and Constantin remains ongoing.¹⁰

Constantin has filed another Motion for Summary Judgment on Millrock's claim for Voidable Transfer.¹¹ The Motion is fully briefed and ripe for review.¹²

ANALYSIS

The court first considers whether summary judgment is appropriate and then considers whether Constantin is entitled to attorney fees and costs.

⁴ *Id.* ¶¶ 113–20.

⁵ Dkt. 47, *Answer to Second Amended Complaint and Jury Demand*.

⁶ Dkt. 95, *Defendants Joshua Constantin and Stuart McMahan's Motion for Summary Judgment*.

⁷ Dkt. 123, *Rule 56(d) Motion to Defer or Deny Defendants Joshua Constantin and Stuart McMahan's Motion for Summary Judgment*.

⁸ *Order*.

⁹ *Id.* at 1.

¹⁰ See Dkt. 172, *Short Form Discovery Motion for Sanctions Against Joshua Constantin*; Dkt. 174, *Defendant Joshua Constantin's Motion for Protective Order Under Rule 26(c)*.

¹¹ *Motion*.

¹² *Id.*; Dkt. 170, *Opposition to Defendant Joshua Constantin's Request for Summary Judgment, Sanctions, and Attorney's Fees*; Dkt. 171, *Defendant Joshua Constantin's Reply Memorandum in Support of His Motion for Summary Judgment*.

I. Millrock is entitled to wait until the end of fact discovery to properly oppose summary judgment.

As this court previously concluded, “Millrock is entitled to wait until the end of fact-discovery to properly oppose summary judgment.”¹³ Since that decision, Millrock has actively and diligently pursued discovery. On March 21, 2025, Millrock moved for an order compelling Constantin to respond to discovery,¹⁴ which the court granted in relevant part on May 7, 2025.¹⁵ On July 25, 2025, Millrock renewed its short form discovery motion for sanctions against Constantin for his alleged “complete dereliction in responding to discovery.”¹⁶ On July 28, 2025, Constantin moved for a protective order under Rule 26(c).¹⁷ Both Motions are currently pending before the court. Since fact discovery remains ongoing, Constantin’s Motion for Summary Judgment is premature. The court will therefore deny it.

II. Constantin is not entitled to attorney fees and costs.

Constantin also seeks attorney fees and all other costs incurred in defending this action.¹⁸ Constantin argues he is entitled to fees and costs under a Utah statute that provides, “In civil actions, the court shall award reasonable attorney fees to a prevailing party if the court determines that the action or defense to the action was without merit and not brought or asserted in good faith.”¹⁹ But, given the court has denied his Motion for Summary Judgment, Constantin

¹³ Order.

¹⁴ Dkt. 150, *Short Form Discovery Motion to Compel Discovery and for Sanctions*.

¹⁵ Dkt. 152, *Memorandum Decision and Order Granting in Part and Denying in Part Plaintiff’s Short Form Discovery Motion to Compel Discovery and for Sanctions*.

¹⁶ *Renewed Short Form Discovery Motion for Sanctions Against Joshua Constantin*.

¹⁷ *Defendant Joshua Constantin’s Motion for Protective Order Under Rule 26(c)*.

¹⁸ Motion at 11–14.

¹⁹ Utah Code § 78B-5-825 (2022).

has not yet prevailed in this action. Consequently, his request for attorney fees and costs is denied.

CONCLUSION

For the foregoing reasons, the Motion for Summary Judgment, Attorneys Fees, and Sanctions is DENIED without prejudice.²⁰ If appropriate, Constantin may refile a motion for summary judgment once fact discovery concludes.²¹

SO ORDERED this 3rd day of September 2025.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'R. J. Shelby', is written over a horizontal line.

ROBERT J. SHELBY
Chief United States District Judge

²⁰ Dkt. 160.

²¹ A party opposing a motion for summary judgment under Federal Rule of Civil Procedure Rule 56(d) must do so by motion pursuant to Local Rule 7-1(a)(3).